

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Spencer Utsey,

PLAINTIFF

v.

Edgar W. Dickson,

DEFENDANTS

Case No. 5:19-cv-02873-TLW

Order

Plaintiff Spencer Utsey, proceeding *pro se*, filed this civil action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. ECF No. 2-1. The matter now comes before the Court for review of the Report and Recommendation (Report) filed by the magistrate judge to whom this case was assigned. ECF No. 9. In the Report, the magistrate judge recommends that the Complaint be dismissed without prejudice and without issuance and service of process pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994) and the Eleventh Amendment. Plaintiff filed objections to the Report, but his objections are unclear and rambling, and they do not appear to address the substance of the Report. *See* ECF No. 24. This matter is now ripe for decision.

In reviewing the Report, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other

standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Hous. Auth. of City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in *Wallace*, the Court has reviewed, *de novo*, the Report and the objections. After careful review of the Report and the objections, for the reasons stated by the magistrate judge, the Report is **ACCEPTED**. Plaintiff's objections are **OVERRULED**. His Complaint is hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Senior United States District Judge

August 29, 2022
Columbia, South Carolina